

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMERICAN FEDERATION OF
TEACHERS WASHINGTON,

Complainant,

vs.

SEATTLE COLLEGES,

Respondent.

CASE 128896-U-17

DECISION 12735 - CCOL

ORDER OF DISMISSAL

On April 12, 2017, American Federation of Teachers Washington (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Seattle Colleges (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 15, 2017, indicated that it was not possible to conclude that a cause of action existed at that time. The complainant was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

No further information has been filed by the complainant. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action and untimeliness.

DISCUSSION

The allegations of the complaint concern:

Employer refusal to bargain in violation of RCW 28B.52.073(1)(e) [and if so derivative interference in violation of RCW 28B.52.073(1)(a)] by:

1. On an unspecified date, refusing to bargain with the union in good faith over classroom schedule and contract hours for bargaining unit employees.

¹ At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

2. On an unspecified date, failing and/or refusing to bargain in good faith with the union by sending representatives to collective bargaining negotiations that do not have authority to bargain about economic issues on behalf of the employer.

The deficiency notice pointed out several defects with the complaint. The complaint lacks required information including dates and specific descriptions of conduct by the employer. Many of the allegations in the complaint are written as generalizations and do not include dates, names of persons involved or descriptions of specific statements and events.

Need to Identify Persons Acting on Behalf of the Employer

The complaint makes general statements about the employer's actions, but does not identify any individuals who acted on behalf of Seattle Colleges. The failure to identify employer officials who are alleged to have committed the unfair labor practice violations is problematic. WAC 391-45-050(2) requires the complainant to identify alleged participants. The identity of the employer officials is information that the respondent needs in order to respond to the complaint. In order to attribute an action to the employer the complainant needs to identify who was acting on behalf of the employer.

Need Specific Dates

In this case, the complaint does not contain dates of events for any of the allegations. The facts and events described make vague refusal to bargain allegations that do not include meeting dates. The dates are necessary to determine whether the allegations are timely filed. To determine timeliness the Commission looks at the dates of events in the complaint in relation to the filing date of the complaint.

Statute of Limitations

Unlike the other collective bargaining statutes administered by the Commission, Chapter 28B.52 RCW does not contain a provision limiting the processing of complaints to unfair labor practice allegations occurring more than six months before the filing of the complaint. *Bates Technical College*, Decision 5575-B (CCOL, 1996). The six-month statutes of limitations for Chapter 41.76 RCW and Chapter 41.80 RCW were adopted in 2002; those for Chapter 41.56 RCW and Chapter

41.59 RCW were adopted in 1983. Prior to 1983, the Commission applied a two year limitation of actions in unfair labor practice complaints. *Municipality of Metropolitan Seattle*, Decision 1356-A (PECB, 1982). *Also see, Shoreline Community College (Shoreline Community College Federation of Teachers)*, Decision 10675 (CCOL, 2010).

Commission policy prior to the adoption of statutes of limitations was to use a two year limitation provided under state law. The Commission has not given any indication that Chapter 28B.52 RCW constitutes an exception to the legal principle limiting time for actions to two years. Without dates of events, it is not possible to conclude that this complaint is timely filed.

ORDER

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action and untimeliness.

ISSUED at Olympia, Washington, this 21st day of June, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JESSICA J. BRADLEY, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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DECISION 12735 - CCOL has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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